

## Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:INTL:B06

PLR-102024-19

Date:

June 12, 2019

## Legend

Taxpayer =

Accounting Firm =

Company =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Year 1 =

Trust A =

Trust B =

Individual A =

Individual B =

Individual C =

Dear

This responds to a letter dated December 17, 2018, supplemented by additional correspondence dated June 08, 2019, submitted by your representatives requesting that the Internal Revenue Service ("Service") grant Taxpayer an extension of time under Treas. Reg. §§ 301.9100-1 and 301.9100-3 to file Form 4876-A ("Election To Be Treated as an Interest Charge DISC") for Year 1, Taxpayer's first taxable year.

The ruling contained in this letter is based upon information and representations submitted by Taxpayer and Accounting Firm, and accompanied by affidavits and penalty of perjury statements executed by appropriate parties. This office has not verified any of the materials submitted in support of the request for a ruling. It is subject to verification on examination.

### **FACTS**

On Date 1, Taxpayer was formed to serve as an interest charge domestic international sales corporation ("IC-DISC"). Taxpayer is a domestic corporation that is wholly owned by Company. Company is an S corporation owned by Trust A and Trust B, until Date 2, when Trust A transferred its Company shares to Individual A.<sup>1</sup> Taxpayer was formed in order to sell Company's products to international buyers on a commission basis.

In Year 1, Taxpayer engaged Accounting Firm for assistance with arranging for Taxpayer to qualify as an IC-DISC. Accounting Firm prepared a Form 4876-A and sent it via electronic mail to Individual C, an officer of Company, with the belief that Taxpayer would ensure timely filing with the Service. Individual B, in her official capacities as Taxpayer's President and as Company's President, signed the prepared Form 4876-A on Date 3. Individual C sent an electronic copy to Accounting Firm on Date 4, with the belief that Accounting Firm would ensure timely filing with the Service. Due to these differing beliefs as to who was responsible, and a lack of communication, the completed Form 4876-A was not submitted to the Service in a timely fashion by either Taxpayer or Accounting Firm. As a result, the Form 4876-A was not filed within 90 days after Date 1.

Accounting Firm was instructed to file Taxpayer's Year 1 tax return for the short taxable year starting Date 1, and ending Date 5. Accounting Firm, assuming that Form 4876-A had been timely filed, filed Form 1120 IC-DISC for Year 1 with the Service. Taxpayer subsequently learned that the Service had no record of the filing of a Form 4876-A through receipt of a Form 6800sc. Upon learning of the miscommunications that left the Form 4876-A unfiled, Taxpayer instructed Accounting Firm to file a request for a ruling granting an extension of time to file Form 4876-A for Year 1, its first taxable year.

### **LAW AND ANALYSIS**

Section 992(b)(1)(A) provides that an election by a corporation to be treated as a DISC<sup>2</sup> shall be made by such corporation for a taxable year at any time during the 90-day period immediately preceding the beginning of the taxable year, except that the Secretary may give his consent to the making of an election at such other times as he may designate.

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<sup>1</sup> The beneficiary of Trust A is Individual A, and the beneficiary of Trust B is Individual B.

<sup>2</sup> As used in this letter, the terms "IC-DISC" and "DISC" have the same meaning.

Section 992(b)(1)(B) provides that such election shall be made in such manner as the Secretary shall prescribe and shall be valid only if all persons who are shareholders in such corporation on such first day of the first taxable year for which such election is effective consent to such election.

Temp. Treas. Reg. § 1.921-1T(b)(1) provides, in part, that a corporation electing IC-DISC status must file Form 4876-A and that a corporation electing to be treated as an IC-DISC for its first taxable year shall make its election within 90 days after the beginning of that year.

Treas. Reg. § 301.9100-1(c) provides, in part, that the Commissioner, in exercising the Commissioner's discretion, may grant a reasonable extension of time under the rules set forth in Treas. Reg. §§ 301.9100-2 and 301.9100-3 to make a regulatory election under all subtitles of the Code except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-1(b) provides that a regulatory election is an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin. For this purpose, an election includes an application for relief in respect of tax.

Treas. Reg. § 301.9100-3(a) provides that requests for extensions of time for regulatory elections that do not meet the requirements of Treas. Reg. § 301.9100-2 (automatic extensions) must be made under the rules of Treas. Reg. § 301.9100-3. Requests for relief subject to Treas. Reg. § 301.9100-3 will be granted when the taxpayer provides the evidence (including affidavits described in Treas. Reg. § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that the grant of relief will not prejudice the interests of the Government.

In the present situation, the election described in Temp. Treas. Reg. § 1.921-1T(b)(1) is a regulatory election as defined in Treas. Reg. § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under Treas. Reg. § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards for relief set forth in Treas. Reg. § 301.9100-3.

Based on the facts and representations submitted with Taxpayer's ruling request, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to file Form 4876-A. Such filing will be treated as a timely election to be treated as an IC-DISC for Taxpayer's first taxable year.

The granting of an extension in this ruling letter is not a determination that Taxpayer is otherwise eligible to make the election or to claim IC-DISC status or benefits. See Treas. Reg. § 301.9100-1(a). Taxpayer should attach a copy of this ruling letter to its

Form 4876-A and Federal income tax return for the taxable years to which this letter applies.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

In accordance with the Power of Attorney on file with this office, a copy of this ruling letter is being sent to your authorized representative.

Sincerely,

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Angela E. Holland  
Senior Counsel, Branch 6  
Office of Associate Chief Counsel (International)

Enclosures (2)  
Copy of this letter  
Copy for § 6110 purposes

cc: